

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MARKO ANTONIO HERNANDEZ,

Plaintiff

v.

SUNDAY, *et al.*,

Defendants

Case No. 3:21-cv-00157-MMD-WGC

**ORDER**

**I. DISCUSSION**

On April 5, 2021, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a complaint. (ECF No. 1-1). Plaintiff has not submitted an application to proceed *in forma pauperis* or paid the full \$402 filing fee in this matter.

**Complaint**

The Court notes that Plaintiff did not sign the complaint at ECF No. 1-1. Under Rule 11 of the Federal Rules of Civil Procedure, a plaintiff who is not represented by counsel is required to sign his complaint. Fed. R. Civ. P. 11(a). Because Plaintiff did not sign the complaint, the Court cannot consider it.

As such, the Court grants Plaintiff a **one-time** extension to submit a signed amended complaint to the Court on or before **June 7, 2021**. If Plaintiff chooses to file an amended complaint, he is advised that an amended complaint supersedes (replaces) the original complaint and, thus, the amended complaint must be complete in itself. *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989). Therefore, a mere signature page will not be sufficient. Plaintiff should file the signed amended complaint on this Court’s approved prisoner civil rights form, and it must be entitled “First Amended Complaint.”

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**Application to Proceed in Forma Pauperis**

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period.**

The Court will grant Plaintiff a **one-time** extension to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents, or in the alternative, pay the full \$402 filing fee for this action on or before **June 7, 2021**. Absent unusual circumstances, the Court will not grant any further extensions of time. If Plaintiff does not file a fully complete application to proceed *in forma pauperis* with all three required documents or pay the full \$402 filing fee on or before **June 7, 2021**, this case will be subject to dismissal without prejudice for Plaintiff to file a new case with the Court when Plaintiff has all three of the documents needed to file a fully complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

A dismissal without prejudice means Plaintiff does not give up the right to refile the case with the Court, under a new case number, when Plaintiff has all three documents needed to submit with an application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file an application to proceed *in forma pauperis* and instead pay the full filing fee of \$402 on or before **June 7, 2021** to proceed with this case.

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1       **II. CONCLUSION**

2           For the foregoing reasons, IT IS ORDERED that the Clerk of the Court will send to  
3 Plaintiff the approved form for filing a § 1983 complaint, instructions for the same, and a  
4 copy of his original complaint at ECF No. 1-1. If Plaintiff files a signed amended  
5 complaint, he should use the Court's approved form and he must write the words "First  
6 Amended" above the words "Civil Rights Complaint" in the caption.

7           IT IS FURTHER ORDERD that if Plaintiff chooses to file a signed amended  
8 complaint, Plaintiff will file the signed amended complaint with this Court on or before  
9 **June 7, 2021.**

10          IT IS FURTHER ORDERED that, if Plaintiff does not file a signed amended  
11 complaint on or before **June 7, 2021**, this case will be subject to dismissal without  
12 prejudice for Plaintiff to refile the case with the Court, under a new case number, when  
13 Plaintiff is able to file a signed amended complaint.

14          IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the  
15 approved form application to proceed *in forma pauperis* by an inmate, as well as the  
16 document entitled information and instructions for filing an *in forma pauperis* application.

17          IT IS FURTHER ORDERED that on or before **June 7, 2021**, Plaintiff will either pay  
18 the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52  
19 administrative fee) or file with the Court:

20           (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this  
21 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two  
22 signatures on page 3),

23           (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail  
24 official (i.e. page 4 of this Court's approved form), and

25           (3) a copy of the **inmate's prison or jail trust fund account statement for the**  
26 **previous six-month period.**

27          IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete  
28 application to proceed *in forma pauperis* with all three documents or pay the full \$402

1 filing fee for a civil action on or before **June 7, 2021**, this case will be subject to dismissal  
2 without prejudice for Plaintiff to refile the case with the Court, under a new case number,  
3 when Plaintiff has all three documents needed to file a complete application to proceed  
4 *in forma pauperis* or pays the full \$402 filing fee.

5 DATED: April 7, 2021

6 Warren G. Cobb  
7 UNITED STATES MAGISTRATE JUDGE  
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